HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.583 of 2007

Between:

G. Koteswar Rao

… Petitioner

And

The Government of Andhra Pradesh,
Department of Mines & Geology,
Rep. by its Principal Secretary and four others

… Respondents

:: ORDER::

Counsel for the Petitioner: Shri C. Kodanda Ram

Counsel for Respondent Nos.1 to 3: Government Pleader for Panchayat Raj and Rural Development.

Counsel for respondent No.4: Shri K. Ramakrishna Reddy, Senior Advocate assisted by Shri R. Mahender Reddy, Advocate

February 27, 2007

-
-
-

Per G.S. Singhvi, CJ

This case has been listed for consideration of letter dated 26-2-2007 circulated by Shri C. Kodanda Ram, Advocate wherein the learned counsel stated that he has been instructed by the petitioner to withdraw the writ petition. Along with his letter, the learned counsel has annexed letter (in vernacular), which is said to have been signed by the petitioner without date and which bears seal and signature of one Shri Chandragiri Srinivasa Rao, Advocate (Notary) (with 23-2-2007 as the date) purporting to attest the signatures of the petitioner. The English translation of this letter conveys the desire of the petitioner to withdraw the writ petition.

A perusal of the record shows that the petitioner, who is Sarpanch of Gram Panchyat, Pedapulipaka Village, Penamaluru Mandal, invoked the jurisdiction of this Court under Article 226 of the Constitution of India in the name of public interest for quashing proceedings dated 21-12-2006 issued by District Collector-cum-Confirming Authority, Krishna District, Machilipatnam, whereby leasehold rights were granted in respect of Pedapulipaka Sand Reach on the left bank of river Krishna in favour of respondent No.4.

After hearing the counsel for the petitioner, this Court passed order dated 5-1-2007, which reads as under:

"**W.P.No.583 of 2007**

The Sarpanch of Gram Panchayat Pedapulipaka, Penamaluru Mandal, Krishna District has filed this petition for quashing proceedings dated 21.12.2006 issued by District Collector-cum-Confirming Authority, Krishna District, Machilipatnam for grant of leasehold rights in respect of

Pedapulipaka sand reach on the left bank of river Krishna to respondent No.4 – G. Sudhakar on the ground that the grant is contrary to the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966 and against the public interest.

We have heard learned counsel for the petitioner and perused the record. A perusal of the record of the writ petition shows that vide proceedings dated 21.04.2006, District Level Committee declined to grant lease to respondent No.4 on the ground that the same would have grave adverse impact on the ground water available in the area. Respondent No.4 challenged the decision of the District Level Committee in Writ Petition No. 9406 of 2006. He also filed W.P.M.P.No.11909 of 2006 for issue of an interim mandatory direction to the District Level Committee to call for fresh report from Director, Ground Water Department. By an ex parte interim order dated 28.04.2006, a learned Single Judge granted interim relief in terms of the prayer made. Thereafter, respondent No.4 appears to have manipulated a contra report from the Ground Water Department and, on that basis, the District Level Committee approved the grant of lease to him. This resulted in issue of order dated 21.12.2006, which is subject matter of challenge in this petition.

We have serious reservation on the justification of mandatory ad-interim order passed by the learned Single Judge in W.P.M.P.No.11909 of 2006 because the said order left nothing to be decided in the main writ petition. We also have serious reservation about the bona fides of the authorities of the Ground Water Department, who changed their opinion on the issue of availability of ground water and thereby facilitated grant of lease in favour of respondent No.4.

Admit.

Learned Government Pleader for Mines and Geology accepts notice on behalf of respondent No.1, learned Government Pleader for Panchayat Raj and Rural Development accepts notice on behalf of respondent Nos.2 and 3, and Shri V. Ramakrishna Reddy accepts notice on behalf of respondent No.4. Therefore, notice be issued only to respondent No.5.

W.P.M.P.No.714 OF 2007

Notice of the application to the respondents for 08.02.2007.

Learned Government Pleader for Mines and Geology is directed to accept notice on behalf of respondent No.1.

Learned Government Pleader for Panchayat Raj and Rural Development accepts notice on behalf of respondent Nos. 2 and 3.

Shri V. Ramakrishna Reddy accepts notice on behalf of respondent No.4.

Counter-affidavit be filed by the respondents within two seeks.

The case be listed on 08.02.2007.

In the meanwhile, operation of proceedings-cum-order dated 21.12.2006 issued by District Collector-cum-Confirming Authority, Krishna District at Machilipatnam shall remain stayed and respondent No.4 is restrained from quarrying sand on the basis of the said proceedings-cum-order.

At this stage, learned Government Pleader for Industries and Commerce informed us that two other writ petitions No.27144 of 2006 and 85 of 2007 have been filed questioning the legality of proceedings-cum-order dated 21.12.2006. Therefore, we direct that Writ Petition Nos. 27144 of 2006 and 85 of 2007 shall also be listed before the Division Bench along with this petition."

On 9-2-2007, the case was listed for considering WVMP No.270 of 2007 filed by Shri G. Sudhakar (respondent No.4 in the writ petition) for vacating the interim order, but the same was adjourned at the request of the counsel for Shri G. Sudhakar, who gave out that copy of the reply affidavit was made available to him only seven days' back. The next date of hearing was fixed as 8-3-2007. Thereafter, the petitioner changed his advocate, who, as mentioned above, circulated letter dated 26-2-2007 for grant of leave to his client i.e. the petitioner to withdraw the writ petition.

In our opinion, the sudden change of heart of the petitioner, which is reflected in the letter sent by him to the new advocate engaged by him, is inexplicable. This seems to be the result of operation of extraneous forces and factors.

Notwithstanding the above, we deem it proper to grant leave to the petitioner to withdraw the petition and at the same time impose costs of Rs.50,000/- on him for having misused the process of the Court in the guise of public interest litigation. The amount of costs shall be deposited with the Andhra Pradesh State Legal Services Authority within one month from today. Member Secretary, Andhra Pradesh State Legal Services Authority is directed to inform the Court whether or not the petitioner has deposited the amount so that, if necessary, the Court may direct recovery of the amount of costs as arrears of land revenue.

While granting leave to the petitioner to withdraw the writ petition, but keeping in view the larger public interest involved in the matter, we deem it proper to suo motu continue the proceedings of the writ petition.

The Registry is directed to assign new number to the writ petition and list the same before the Court on 26-4-2007 along with Writ Petition Nos.27144 of 2006 and 85 of 2007. Interim order dated 5-1-2007 shall also continue till the next date of hearing.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

February 27, 2007

ks